

# CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alex Tuminello	Team: Squad #15	CCRB Case #: 201510924	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/23/2015 1:45 AM	Location of Incident: In front of § 87(2)(b) and the 73rd Precinct stationhouse.	Precinct: 73	18 Mo. SOL 6/23/2017	EO SOL 6/23/2017	
Date/Time CV Reported Wed, 12/23/2015 5:50 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 12/31/2015 11:03 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Peter Lazare	05579	948374	SRG
2. POM Frederick Manney	22317	949938	SRG
3. SGT § 87(2)(b) Rodenas	04602	920770	SRG
4. DT2 Michael Obrien	02221	916343	ESS 07
5. An officer			SRG
6. Officers			SRG

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brandon Ravelo	26010	948409	SRG

Officer(s)	Allegation	Investigator Recommendation
A.POM Peter Lazare	Abuse: In front of § 87(2)(b) in Brooklyn, Police Officer Peter Lazare stopped § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
B.POM Frederick Manney	Abuse: In front of § 87(2)(b) in Brooklyn, Police Officer Frederick Manney frisked § 87(2)(b)	§ 87(2)(b)
C.SGT § 87(2)(b) Rodenas	Abuse: In front of § 87(2)(b) in Brooklyn, Sergeant § 87(2)(b) Rodenas frisked § 87(2)(b)	§ 87(2)(b)
D.POM Frederick Manney	Abuse: In front of § 87(2)(b) in Brooklyn, Police Officer Frederick Manney searched § 87(2)(b)	§ 87(2)(b)
E.SGT § 87(2)(b) Rodenas	Abuse: In front of § 87(2)(b) in Brooklyn, Sergeant § 87(2)(b) Rodenas searched § 87(2)(b)	§ 87(2)(b)
F.POM Peter Lazare	Discourtesy: In front of § 87(2)(b) in Brooklyn, Police Officer Peter Lazare spoke discourteously to § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
G. Officers	Force: In front of § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
H.SGT § 87(2)(b) Rodenas	Force: In front of § 87(2)(b) in Brooklyn, Sergeant § 87(2)(b) Rodenas used pepper spray against § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
I.SGT § 87(2)(b) Rodenas	Force: In front of § 87(2)(b) in Brooklyn, Sergeant § 87(2)(b) Rodenas used pepper spray against § 87(2)(b)	§ 87(2)(b)
J.POM Peter Lazare	Abuse: In front of § 87(2)(b) in Brooklyn, Police Officer Peter Lazare interfered with § 87(2)(b)'s use of a recording device.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
K.POM Peter Lazare	Abuse: In front of § 87(2)(b), Police Officer Peter Lazare damaged § 87(2)(b)'s property.	
L. An officer	Force: In front of § 87(2)(b) in Brooklyn, an officer used physical force against § 87(2)(b)	
M.DT2 Michael Obrien	Force: At the 73rd Precinct stationhouse in Brooklyn, Detective Michael O'Brien used physical force against § 87(2)(b) § 87(2)(b)	
N.POM Frederick Manney	Force: At the 73rd Precinct stationhouse in Brooklyn, Police Officer Frederick Manney used physical force against § 87(2)(b) § 87(2)(b)	

## Case Summary

On December 23, 2015, at approximately 1:45 a.m., § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) were returning from Starlett's Strip Club in Queens. While the three individuals were inside of a cab outside of § 87(2)(b) in Brooklyn, an unmarked Chevy Impala pulled up behind the cab. As all three of the individuals exited the cab, they were approached by PO Peter Lazare, PO Frederick Manney and Sgt. § 87(2)(b) Rodenas of the Strategic Response Group (**Allegation A**). § 87(2)(b) § 87(2)(b) and § 87(2)(b) both alleged that PO Manney and Sgt. Rodenas frisked and searched § 87(2)(b) (**Allegations B, C, D and E**) PO Lazare approached § 87(2)(b) § 87(2)(b) and allegedly stated, "Put the fucking phone away" (**Allegation F**) and attempted to grab his arm. PO Lazare then allegedly stated, "Get the hell off the phone" and proceeded to grab § 87(2)(b) § 87(2)(b) by his jacket and wrestled him to the ground. PO Lazare landed on top of § 87(2)(b) § 87(2)(b) and stated, "Gun." PO Lazare attempted to place § 87(2)(b) § 87(2)(b) hands behind his back and § 87(2)(b) § 87(2)(b) pulled his arms forward. PO Lazare allegedly punched § 87(2)(b) § 87(2)(b) one to two times on the right hand-side of his face near his eye and nose. PO Manney and Sgt. Rodenas then approached § 87(2)(b) § 87(2)(b) while he was on the ground and allegedly kicked him in the face approximately four to five times (**Allegation G**). While on the ground, Sgt. Rodenas pepper sprayed § 87(2)(b) § 87(2)(b) in his face for approximately five to ten seconds (**Allegation H**). § 87(2)(b) § 87(2)(b) also alleged that she was pepper sprayed by Sgt. Rodenas and she used her hair to block the mace (**Allegation I**). § 87(2)(b) § 87(2)(b) alleged that she attempted to record the incident with two of her cell phones, PO Lazare grabbed each phone out of her hand and allegedly threw both phones behind her. She alleged that the screen on one of her phones was cracked (**Allegations J and K**).

§ 87(2)(b) § 87(2)(b) was handcuffed and placed in an unmarked police vehicle. § 87(2)(b) § 87(2)(b) alleged that as she walked away from the incident location, an officer pushed her against a fence with his forearm. She alleged that the officer held her against the fence for approximately five minutes before letting her go (**Allegation L**).

§ 87(2)(b) § 87(2)(b) was transported to the 73<sup>rd</sup> Precinct stationhouse for processing. He alleged that while in the holding cell area, Emergency Service Unit officers arrived at the location. He alleged that an ESU officer identified by the investigation as Detective Michael O'Brien of ESU 7 and PO Manney allegedly dragged him approximately one to two feet by his leg shackles and his stomach and chest made contact with the ground (**Allegations M and N**). § 87(2)(b) § 87(2)(b) alleged that he was placed in a restraining bag and transported to § 87(2)(b) § 87(2)(b).

§ 87(2)(b)

The investigation received three videos from IAB in regards to cell phone footage from this incident. The footage was provided to IAB by § 87(2)(b) § 87(2)(b). The video footage is extremely blurry and does not indicate any of the allegations raised by § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) in this case.

The investigation went over 90 days for several different reasons. On March 11, 2016, the case was truncated due to the fact that § 87(2)(b) § 87(2)(b) refused to cooperate with the investigation, § 87(2)(b) § 87(2)(b).

§ 87(2)(b) refused to sign verification forms in regards to his CCRB interview which was conducted via video-conference with § 87(2)(b) on February 4, 2016 and § 87(2)(b) missed two scheduled appointments. On March 17, 2016, § 87(2)(b) appeared at the CCRB for her third scheduled appointment and provided a sworn statement. § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- This complaint was unsuitable for mediation because § 87(2)(b) was arrested in regards to this incident.
- As of September 23, 2016, § 87(2)(b) and § 87(2)(b) have not filed a notice of claim inquiry with the Office of the New York City Comptroller in regards to this incident (Encl. Board Review 10).
- Without valid NYSID numbers, the undersigned investigator was unable to look-up § 87(2)(b) and § 87(2)(b) criminal conviction history in the New York State Office of Court Administration database.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- § 87(2)(b)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint filed by § 87(2)(b) (Encl. Board Review 04).
- § 87(2)(b)
- § 87(2)(b)
- PO Lazare has been a member of the service for seven years and has been the subject of six previous CCRB allegations involving four cases. Relevant to this case, a physical force allegation was pled against PO Lazare in CCRB case number 201404826 and closed by the Board as complainant uncooperative. Also relevant to this case, in CCRB case numbers 201106959 and 201213034, stop allegations were pled against PO Lazare and closed by the Board as complainant uncooperative. In CCRB case number 201500346, a strip-search allegation was substantiated against PO Lazare. The Board recommended Command Discipline-B. There is no NYPD disposition is not available.

- PO Manney has been a member of the service for five years and has been the subject of four previous CCRB allegations involving one case. § 87(2)(b)
- Sgt. Rodenas has been a member of the service for 18 years and has been the subject of 30 previous CCRB allegations involving seven cases. § 87(2)(g), in CCRB case numbers 200100752 and 201310516, physical force allegations were pled against Sgt. Rodenas and none of these allegations were substantiated. In CCRB case number 200710909, a discourtesy allegation was substantiated against Sgt. Rodenas. The Board recommended charges but the NYPD declined to prosecute.
- Detective O'Brien has been a member of the service for 21 years and has been the subject of four previous CCRB allegations involving one case. § 87(2)(g)

### **Potential Issues**

- The investigation attempted to acquire a statement from § 87(2)(b) however, he refused to provide any information to the CCRB
- The investigation was unable to identify and contact the cab driver that dropped off § 87(2)(b) and § 87(2)(b) on the date of the incident. According to the civilians, the driver worked for a private company and they did not have the driver's information. PO Lazare, PO Manney and Sgt. Rodenas also did not have any information listed for the cab driver.
- There are no TARU cameras located in the vicinity of the incident location. No officers assigned to SRG wear NYPD issued body cameras.
- On December 31, 2015, the CCRB's Field Team travelled to § 87(2)(b) in Brooklyn and observed exterior cameras at the location. The investigators gained access to the vestibule of the location and acquired the contact information of the owner and superintendent. The investigators attempted to call the telephone number provided and were unable in contact with the owner.
- The undersigned investigator attempted to attain video footage from § 87(2)(b) The undersigned investigator was told by school security that it not have any external video cameras on the premises. The undersigned investigator also attempted to attain video footage from a camera located at § 87(2)(b) and was told by Computer and Information Technology worker Oleg who handles the cameras at the location that there was no footage from December 23, 2015 because the hard-drive was broken.

### **Findings and Recommendations**

#### **Identification of Subject Officers**

- While all of the officers testified that they were in the vehicle at the time they observed an argument between the unidentified cab driver and § 87(2)(b) and § 87(2)(b) PO Lazare identified himself as the officer who drove the police vehicle towards the civilians without being instructed to do so and pulled behind the cab. In addition, he also provided instructions to the rest of the officers in regards to § 87(2)(b)

§ 87(2)(b) As a result, Allegation A is being pled against PO Lazare.

**Allegation A: Abuse of Authority- In front of § 87(2)(b) in Brooklyn, Police Officer Peter Lazare stopped § 87(2)(b) and § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) both testified that while in a cab in front of § 87(2)(b) in Brooklyn, an unmarked police vehicle pulled behind the cab. As § 87(2)(b) and § 87(2)(b) exited the cab, they were approached by PO Lazare, PO Manney and Sgt. Rodenas. At no point did § 87(2)(b) and § 87(2)(b) state that they were engaged in a dispute with a cab driver.

PO Lazare identified himself as the driver of the police vehicle at the time of the incident. PO Lazare testified that he observed § 87(2)(b) and § 87(2)(b) exiting an SUV cab and arguing with the driver. PO Lazare made a U-turn on Lott Avenue and pulled the police vehicle behind the cab. § 87(2)(b)

Sgt. Rodenas and PO Manney's testimony was generally consistent with the testimony of PO Lazare. None of the officers wrote down the information of the cab driver that dropped off § 87(2)(b) and § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

**Allegation B: Abuse of Authority- In front of § 87(2)(b) in Brooklyn, Police Officer Frederick Manney frisked § 87(2)(b)**

**Allegation C: Abuse of Authority- In front of § 87(2)(b) in Brooklyn, Sergeant Rodenas frisked § 87(2)(b)**

**Allegation D: Abuse of Authority- In front of § 87(2)(b) in Brooklyn, Police Officer Frederick Manney searched § 87(2)(b)**

**Allegation E: Abuse of Authority- In front of § 87(2)(b) in Brooklyn, Sergeant Rodenas searched § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) both testified that upon exiting the cab, they observed PO Manney and Sgt. Rodenas frisking and searching § 87(2)(b)

According to their testimony, PO Manney and Sgt. Rodenas stated that none of the officers frisked and searched § 87(2)(b)

As previously noted, § 87(2)(b) refused to cooperate with the investigation. § 87(2)(g)

**Allegation F: Discourtesy- In front of § 87(2)(b) in Brooklyn, Police Officer Peter Lazare spoke discourteously to § 87(2)(b) § 87(2)(b)**

§ 87(2)(b) § 87(2)(b) alleged that upon exiting the cab he approached where the officers were frisking and searching § 87(2)(b) § 87(2)(b) stated that he began to record the officers interacting with § 87(2)(b) He was approached by PO Lazare who allegedly stated twice to him, “Put the fucking phone away.” § 87(2)(b) § 87(2)(b) stated that he did not have to do so and alleged that PO Lazare used his right arm to grab § 87(2)(b) § 87(2)(b) left arm and he pulled away. PO Lazare then allegedly stated, “Get the hell off of the phone.”

§ 87(2)(b) § 87(2)(b) stated that she was present with § 87(2)(b) § 87(2)(b) when PO Lazare approached where they were standing outside of the cab. She stated that PO Lazare stated to § 87(2)(b) § 87(2)(b) “Hello, how you doing § 87(2)(b) § 87(2)(b) § 87(2)(b) did not allege that PO Lazare cursed at § 87(2)(b) § 87(2)(b) in her presence.

PO Lazare stated that he approached § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) who were standing next to the cab. PO Lazare stated, “Hey § 87(2)(b) § 87(2)(b) What is going on?” § 87(2)(b) § 87(2)(b) stated, “I got a lawsuit on you, fuck out of here.” § 87(2)(b) § 87(2)(b) stated, “We good, we were having a good time drinking.” PO Lazare stated that the civilians were coming back from a club and he told them to relax. PO Lazare stated that at no point on the date of the incident, did he speak discourteously to § 87(2)(b) § 87(2)(b)

Both PO Manney and Sgt. Rodenas stated that as PO Lazare approached § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) they were primarily dealing with § 87(2)(b) § 87(2)(b) Sgt. Rodenas did state that he overheard § 87(2)(b) § 87(2)(b) yell at PO Lazare, “Fuck off me, what the fuck.” PO Lazare responded to § 87(2)(b) § 87(2)(b) “We want to make sure everyone is ok, you guys are fighting.” At no point did PO Manney or Sgt. Rodenas hear PO Lazare speak discourteously to § 87(2)(b) § 87(2)(b)

§ 87(2)(g)  
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§ 87(2)(g)

**Allegation G: Force- In front of § 87(2)(b) in Brooklyn, officers used physical force against § 87(2)(b) § 87(2)(b)**

§ 87(2)(b) § 87(2)(b) alleged that as PO Lazare attempted to get him off the phone, PO Lazare grabbed his jacket and wrestled him to the ground. He stated that his chest and the left side of his face made contact with the ground. PO Lazare landed on top of § 87(2)(b) § 87(2)(b) back. Upon landing on top of § 87(2)(b) § 87(2)(b) PO Lazare stated, “Gun.” PO Lazare attempted to place § 87(2)(b) § 87(2)(b) hands behind his back and § 87(2)(b) § 87(2)(b) began to pull his arms forward. PO Lazare allegedly punched § 87(2)(b) § 87(2)(b) one time on the right hand side of his face. PO Lazare then placed § 87(2)(b) § 87(2)(b) in handcuffs. Once in handcuffs, PO Lazare punched him an additionally one to two times on the right side of his face

near his eye and nose. PO Manney and Sgt. Rodenas then allegedly approached § 87(2)(b) while he was on the ground and the officers kicked him in the face approximately four to five times. § 87(2)(b) alleged that he was diagnosed at § 87(2)(b) with a fractured eye socket, busted blood vessels in both eyes and a broken nose.

§ 87(2)(b) alleged that § 87(2)(b) held onto the gate as the officers tried to take him to the ground. He was commanded approximately five times to let go and to stop resisting. § 87(2)(b) alleged that PO Lazare, PO Manney and Sgt. Rodenas allegedly punched § 87(2)(b) in the face approximately 20 times and once he was on the ground, PO Manney allegedly placed his knee in his back and PO Lazare and Sgt. Rodenas allegedly kicked § 87(2)(b) in the back and ribs approximately 10 times. § 87(2)(b) stated that the officers were struggling to handcuff § 87(2)(b) left arm. § 87(2)(b) did not state that she observed injuries on § 87(2)(b) as a result of the alleged assault.

PO Lazare stated that during the incident, he discovered a firearm in § 87(2)(b) jacket and alerted the other officers. PO Manney made his way over to PO Lazare and grabbed § 87(2)(b) right arm while PO Lazare grabbed § 87(2)(b) left arm. § 87(2)(b) began to flail his arms and attempted to spit at the officers and pull his knee up. § 87(2)(b) also attempted to grab PO Lazare's arm as he grabbed § 87(2)(b). § 87(2)(b) attempted to throw several punches at the officers, back-peddled and stated, "Get off me." PO Lazare threw one punch at § 87(2)(b) and it made contact where his neck and shoulder meet. PO Lazare did not observe any officers throw multiple punches or kick § 87(2)(b). After one minute of trying to place § 87(2)(b) under arrest, all parties fell to the ground. PO Lazare was unsure where § 87(2)(b) made contact with the ground but he stated that he was on § 87(2)(b) right side. While on the ground, § 87(2)(b) continued to resist by swinging at the officers and attempting to bite them. § 87(2)(b) was also given multiple commands by all of the officers to stop resisting and to place his hands behind his back.

PO Manney and Sgt. Rodenas testimony was generally consistent with that of PO Lazare's with the following exception, PO Manney testified that he struck § 87(2)(b) in the face one time with a closed fist to overcome § 87(2)(b) resistance. PO Manney stated that officers used numerous strikes to overcome § 87(2)(b) resistance; however, he stated that he did not observe these other strikes.

According to § 87(2)(b) medical records (Encl. Medical Records Folder), he was transported to § 87(2)(b) while in NYPD custody on § 87(2)(b). The records indicate that § 87(2)(b) was taken to the hospital in regards to contusions received while fighting with officers during the process of his apprehension. § 87(2)(b) chief complaint is indicated as facial pain and swelling as well as some bleeding from his nose. § 87(2)(b) assessment indicated that he was intoxicated on the date of the incident; however, his level of intoxication is not indicated. § 87(2)(b) was also diagnosed with facial contusions which are not specified in the medical records.

The Tour 1 Command Log from the 73<sup>rd</sup> Precinct on December 23, 2015, indicates that § 87(2)(b) was logged into the command by PO Lazare at an unknown time which cannot be indicated due to the copy of the command log received via IAB. § 87(2)(b) physical condition is



listed as highly intoxicated. There is no notation regarding visible injuries. At 2:45 a.m., § 87(2)(b) was transported to § 87(2)(b) (Encl. Board Review 07).

§ 87(2)(b) New York City Department of Correction photograph from December 24, 2015 does depict any visible bruising, contusions or lacerations to his face (Encl. Board Review 06).

According to NYPD Patrol Guide Procedure 221-01 (Encl. Board Review 01), the primary duty of all members of the service is to protect human life, including the lives of individuals being placed in police custody. Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances.

§ 87(2)(g), § 87(2)(b)

[REDACTED]

[REDACTED]

**Allegation H: Force- In front of § 87(2)(b) in Brooklyn, Sergeant § 87(2)(b) Rodenas used pepper spray against § 87(2)(b) § 87(2)(b)**

§ 87(2)(b) § 87(2)(b) alleged that upon being successfully handcuffed by PO Lazare, Sgt. Rodenas pepper sprayed him in the face and mouth for approximately five to ten seconds.

As previously noted, PO Lazare, PO Manney and Sgt. Rodenas all testified that § 87(2)(b) was actively resisting on the date of the incident. Sgt. Rodenas testified that he did in fact pepper spray § 87(2)(b) in the face in a response to his resistance.

According to NYPD Patrol Guide Procedure 212-95 (Encl. Board Review 09), members of the service may use pepper spray when they reasonably believe that it is necessary to affect an arrest, or establish physical control of a subject resisting arrest.

§ 87(2)(g), § 87(2)(b)

**Allegation I: Force- In front of § 87(2)(b) in Brooklyn, Sergeant § 87(2)(b) Rodenas used pepper spray against § 87(2)(b)**

§ 87(2)(b) alleged that an officer identified by the investigation as Sgt. Rodenas pepper sprayed her in the face and she was able to use her long hair to block the mace.

At no point during his testimony, did § 87(2)(b) state that he observed an officer use pepper spray against § 87(2)(b)

Sgt. Rodenas stated that at no point on the date of the incident did he pepper spray § 87(2)(b) PO Lazare and PO Manney also testified that at no point on the date of the incident was § 87(2)(b) pepper sprayed by an officer.

§ 87(2)(g)

**Allegation J: Abuse of Authority- In front of § 87(2)(b) in Brooklyn, Police Officer Peter Lazare interfered with § 87(2)(b)'s use of a recording device.**

**Allegation K: Abuse of Authority- In front of § 87(2)(b) in Brooklyn, Police Officer Peter Lazare damaged § 87(2)(b)'s property.**

§ 87(2)(b) alleged that as she attempted to record § 87(2)(b)'s interaction with the officers, PO Lazare allegedly grabbed her cell phone with his left hand as he knelt on the ground with his body weight on § 87(2)(b). He then proceeded to throw the phone behind § 87(2)(b). As a result of this action, the screen of her phone was cracked. § 87(2)(b) then took out an additional cell phone to record the rest of the incident. PO Lazare allegedly grabbed the second cell phone and threw it behind her as well but it did not sustain any damages. § 87(2)(b) provided a photograph of the alleged damage to the first cell phone during her CCRB statement which indicates a screen cracked in several places. According to the properties file of the photograph, § 87(2)(b) took this photo on March 17, 2016, which is nearly 90 days after the incident date (Encl. Board Review 12).

§ 87(2)(b) did not observe any of the officers grab § 87(2)(b)'s phone and throw it, however, he stated that she did state to him that PO Lazare allegedly knocked her phone out of her hand.

According to PO Lazare at no point did § 87(2)(b) attempt to record the incident and he denied throwing any cell phones that belonged to § 87(2)(b) during their interaction.

Both Sgt. Rodenas and PO Manney corroborated PO Lazare's testimony with no exceptions noted.

§ 87(2)(g)

**Allegation L: Force- In front of § 87(2)(b) in Brooklyn, an officer used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that as she walked approximately two houses away from the incident location, an unidentified officer pushed her against a fence with his forearm. The officer's that his forearm made contact with her back and he kept her against the fence for approximately five minutes before the other officers gave him the ok to release her.

PO Lazare, PO Manney and Sgt. Rodenas testified that at no point did they observe an officer push § 87(2)(b) up against a fence. PO Lazare and Sgt. Rodenas recalled that § 87(2)(b) attempted to move towards the officers as they attempted to successfully handcuff § 87(2)(b) and she was told to step back. Sgt. Rodenas stated that § 87(2)(b) stated, "Why are you fucking with him, he is a good man." Sgt. Rodenas also alleged that § 87(2)(b) appeared to be intoxicated because her breath smelled and her eyes were watery. At no point did any of the officers make physical contact with § 87(2)(b)

According to NYPD Patrol Guide Procedure 221-01 (Encl. Board Review 01), the primary duty of all members of the service is to protect human life, including the lives of individuals being placed in police custody. Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances.

§ 87(2)(g)

**Allegation M: Force- At the 73rd Precinct stationhouse in Brooklyn, Detective Michael O'Brien used physical force against § 87(2)(b) § 87(2)(b)**

**Allegation N: Force- At the 73rd Precinct stationhouse in Brooklyn, Police Officer Frederick Manney used physical force against § 87(2)(b) § 87(2)(b)**

It is undisputed that officers had to use physical force on the date of the incident in order to successfully transport § 87(2)(b) § 87(2)(b) to the hospital; § 87(2)(b)

§ 87(2)(b) § 87(2)(b) stated that upon being placed in the holding cell area of the 73<sup>rd</sup> Precinct stationhouse. Detective O'Brien of ESU entered the cell with PO Manney. Detective O'Brien and PO Manney dragged him approximately one to two feet by his leg shackles and his stomach and chest made contact with the ground. § 87(2)(b) § 87(2)(b) was dragged to bag in the corridor in front of the cell. He stated that he was placed in a restraining bag by the officers and there was an opening that allowed him to breath. § 87(2)(b) § 87(2)(b) was then placed on a gurney and escorted to § 87(2)(b)

Detective O'Brien stated that upon arriving at the cell area of the 73<sup>rd</sup> Precinct stationhouse, § 87(2)(b) § 87(2)(b) was acting disorderly and had to be placed in a spitting mask and in a mesh restraining bag. Detective O'Brien did not recall the specifics of placing § 87(2)(b) § 87(2)(b) in the bag but recalled that as he placed the mask over § 87(2)(b) § 87(2)(b) face, he was actively resisting. § 87(2)(b) § 87(2)(b) was then placed on a stretcher and transported to § 87(2)(b) via EMS.

PO Manney, PO Lazare and Sgt. Rodenas all testified that ESU was called to the command and § 87(2)(b) § 87(2)(b) was placed in a mesh restraining bag. PO Manney, PO Lazare and Sgt. Rodenas all stated that at no point was § 87(2)(b) § 87(2)(b) dragged by his leg shackles. PO Manney testified that he escorted § 87(2)(b) § 87(2)(b) to § 87(2)(b) § 87(2)(b); however, he did not testify that he assisted ESU in regards to restraining § 87(2)(b) § 87(2)(b)

§ 87(2)(b) § 87(2)(b) medical records do not indicate any visible injuries to his stomach or chest area (Encl. Medical Records Folder).

The ESU Report (Encl. Board Review 08) indicates that ESU Truck 7 responded to the 73<sup>rd</sup> Precinct stationhouse on December 23, 2015 at approximately 2:20 a.m. The crew responded for the crime team with an emotionally disturbed prisoner in the cell area. The crew placed § 87(2)(b) § 87(2)(b) in cuffs, leg shackles and in a restraint bag. The crew also utilized a face mask supplied by EMS.

§ 87(2)(b), § 87(2)(g)

Squad: 15

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date